June 30, 2000

D.T.E. 99-60-B

Investigation by the Department of Telecommunications and Energy on its own Motion into the Pricing and Procurement of Default Service Pursuant to G.L. c. 164, § 1B(d).

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I. INTRODUCTION

On June 21, 1999, the Department of Telecommunications and Energy ("Department") issued an Order instituting a Notice of Inquiry/Generic Proceeding into the Pricing and Procurement of Default Service[(1)] to determine the average monthly market price of electricity and to determine how this price should be incorporated in the default service rate ("NOI"). This proceeding was docketed as D.T.E. 99-60. After consideration of written comments, the Department issued draft guidelines addressing certain "essential components" of the pricing and procurement of default service. See D.T.E. 99-60-A (May 12, 2000). Recognizing that there had been important developments in the wholesale energy markets since initial comments were submitted, the Department sought additional comment[(2)] on several specific issues before issuing final guidelines for default service. D.T.E. 99-60-A at 19-20. In addition, interested persons were given an opportunity to discuss these issues at a technical session[(3)] held on May 25, 2000.

II. STATUTORY AND REGULATORY FRAMEWORK

General Laws Chapter 164, § 1B(d)[(4)] requires the following: 1) that each distribution company provide default service; 2) that the default service be competitively procured; 3) that the default service rate "shall not exceed the average monthly market price of electricity;" and 4) that bids to supply default service "shall include payment options with rates that remain uniform for periods of up to six months." In its rules implementing the Restructuring Act, the Department required that the rate for default service not exceed the average monthly market price for electricity; however, like the Act itself, the Department's rules are silent on the issue of how the average monthly market price for electricity is to be determined and on other aspects of default service. 220 C.M.R. § 11.04. In the absence of detailed generic requirements for default service, the Department has directed distribution companies to use their standard offer service price as the proxy for the market price for electricity and the basis for their default service price (Letter to Massachusetts Electric Company regarding Pricing for Default Service, June 1, 1999).[(5)]

III. FINAL GUIDELINES FOR DEFAULT SERVICE

A. Default Service Pricing Options

1. The Department's Draft Guidelines

The Department's May 12, 2000, draft guidelines contained the following pricing options for default service customers: 1) a six-month fixed price option available to those customers receiving default service on the date that each six-month default service term begins and to those customers that move into a distribution company's service territory after the beginning of the six-month term, and 2) a variable price option in which the default service price would change monthly.[(6)] Under the variable price option, the average price over the

six-month period will be equal to the price in the six-month fixed price option.

The draft guidelines included an additional provision that would apply to those customers taking default service under the fixed price option and that leave default service during the six-month term. To ensure that default service customers are charged the full costs of providing the service for the period of time that the customers receive the service, the monthly default service costs charged to these customers would be recalculated using the monthly prices in effect during the months that the customer received default service. The Department requested that commenters address whether our draft guidelines sufficiently addressed concerns that competitive suppliers may seek to switch their customers to default service during peak months when the default service price, on a six-month average basis, is lower than prices available in the wholesale energy market. D.T.E. 99-60-A at 9. 2. Summary of Comments

The Competitive Retail Suppliers and Aggregators and AIM state that residential and small commercial and industrial ("C&I") customers should not have the opportunity to choose between the two pricing options included in the Department's draft guidelines. These commenters state that residential and small C&I customers should be required to take default service under the fixed, six-month pricing option because a monthly price that varies would be confusing to customers (Competitive Retail Suppliers and Aggregators Comments at 7-8; AIM Comments at 2-3). The Competitive Retail Suppliers and Aggregators state that allowing smaller customers to choose between the two options would also make it more difficult to market competitive supply to these customers because marketers typically design their pricing proposals as a percentage discount off the distribution companies' standard offer and default service rates (Competitive Retail Suppliers and Aggregators Comments at 7-8). The Competitive Retail Suppliers and Aggregators state that having two default service pricing options would significantly complicate their marketing activities. In addition, the Competitive Retail Suppliers and Aggregators state that allowing only a single default service pricing option for these customers would be more consistent with establishing default service as a "plain vanilla" service (id.).

MECo suggests that the Department revise the draft guidelines to make the fixed price option the standard for all customers unless a customer elects the variable monthly option (MECo Comments at 2-4). MECo states that a monthly variable rate would likely require distribution companies to prorate customers' bills on a monthly basis, which would be confusing to customers and would be difficult for the distribution companies to administer (id.). Under MECo's proposal, if a customer elected to switch to the variable option, the customer would remain on that option while a default service customer; if the customer left default service for a competitive supplier and subsequently returned to default service, the customer would return on the variable price option (id.).

Finally, NSTAR states that the draft guidelines' provision regarding the recalculation of default service costs for customers that leave default service during a six-month term should not apply to those customers that leave default service because they move out of a distribution company's service territory (NSTAR Comments at 6-7). NSTAR states that this limit is appropriate because: 1) these customers are not attempting to "game the system,"[(7)] and 2) the recalculation of bills for such customers would be a significant undertaking (id.).

3. Analysis

In our draft guidelines, the Department stated that default service customers should be charged the market rate. In this respect the Department's guidelines decouple default service rates from standard offer rates. Our final guidelines on default service pricing address the following issues: 1) the pricing option on which distribution companies will automatically and initially place customers, 2) the extent to which customers will have the opportunity to switch between pricing options, and 3) the recalculation of default service costs for customers taking default service under the fixed price option if they leave default service during its six-month term.

General Laws c. 164, §1B(d) states that "all bids shall include payment options with rates that remain uniform for periods of up to six months." Although interpreting the words "up to" is difficult,[(8)] we read this passage as requiring that a fixed-price, six-month default service option be available to all default service customers.

Our resolution of the default service question must provide guidance to distribution companies regarding the "default" pricing option on which customers initially will be placed. The Department concludes that, for residential and small C&I customers (as determined by each distribution company's rate classes),[(9)] the customary[(10)] default pricing option should be the six-month fixed price (i.e., these customers would automatically be placed on this pricing option, unless a customer elects the variable monthly pricing option). Placing smaller customers on the fixed price option should minimize confusion on the part of these customers. This type of price constancy is consistent with what customers historically have seen on their electric bills, even when the fuel charge was in effect, and more recently, when default service and standard offer prices were happenstantially the same.

With respect to medium and large C&I customers, the Department determines that the variable price option is the appropriate customary option for these customers. Customers in these categories typically are more informed than smaller customers with regard to both their energy usage and their competitive supply options. Therefore, the Department concludes that medium and large C&I customers, as well as customers receiving electric service under street lighting tariffs (as determined by each distribution company's rate classes), should automatically be placed on the monthly pricing option, unless the customer elects the fixed

six-month pricing option.

The second issue is the extent to which customers, once automatically assigned, will have the opportunity to switch between the fixed and variable price options. All default service customers should have the conditional opportunity to choose between the fixed price option and the variable price option. As discussed above, residential customers would automatically be placed on the fixed six-month option. These customers should, however, have the opportunity to elect the variable price option. Even so, once an election of the variable price option is made, a residential customer that elects this pricing option would not have the opportunity to switch back to the fixed price option for as long as he continued to receive uninterrupted default service.[(11)] If a residential customer, however, leaves default service to take generation service from a competitive supplier and then returns to default service, the customer would automatically return to the fixed six-month option, with the opportunity to elect the variable price option.

Similarly, C&I customers may elect to switch to the fixed price option, but, if they so elect, would not have the opportunity to switch back to the variable price option for as long as they continue to receive uninterrupted default service. If a C&I customer leaves default service to take generation service from a competitive supplier and then returns to default service, the customer would automatically return to the variable price option, with the opportunity to elect the fixed price option.

The Department considers it appropriate that all default service customers have the opportunity to select the variable price option, if these customers determine that this option is in their best interests. We are not convinced that providing two pricing options to residential customers would confuse any more than a small number of these customers. The bulk of residential customers should not be denied the option on the grounds that a few might be perplexed. Customers that find energy prices that vary monthly to be confusing would be content with automatic assignment to fixed six-month price. Also, by labeling the six-month fixed price as a "payment option" the Legislature clearly intended for customers to have a choice of at least two pricing plans for default service.

However, allowing customers to repeatedly switch between the two options during a stay on default service would be unnecessarily burdensome and confusing to distribution companies and retail marketers and would drive up administrative costs borne by all customers. For these reasons, the Department concludes that our resolution strikes an appropriate balance between providing flexibility to customers and minimizing the burden placed on distribution companies and retail marketers.

Finally, the Department addresses the recalculation of default service costs for customers who elect default service under the fixed price option but then leave default service during the six-month term. It is appropriate that all customers taking default service under the fixed price option who then switch to a competitive supplier during the middle of a six-month default service term have their bills recalculated using the monthly prices that were in effect during each month that the customer received default service. We see no reason to distinguish between customer classes with regard to this issue.[(12)] However, this provision would not apply to customers that move out of a distribution company's service territory. We recognize that customers who leave a distribution company's service territory are not gaming the system, and, therefore, will not require a recalculation of the bills for them.

B. Default Service Pricing By Customer Class

1. The Department's Draft Guidelines

The Department's May 12, 2000, draft guidelines provided for one default service price with a fixed price and a monthly variable price option, where the fixed price would be the

load-weighted average of the monthly prices. Under the Department's draft guidelines, default service suppliers would provide one bid price (for each month of the contract period) to serve all customer classes. However, the Department also noted that, to the extent the costs and risks associated with providing default service differ significantly among customer classes, a single default service price for all customers could result in poor price signals and in cross-subsidization among customers classes. D.T.E. 99-60-A at 9. The technical session and subsequent comments provided additional information on the costs and risks involved in providing default service.

2. Summary of Comments

NSTAR states that its billing systems cannot accommodate multiple default service rates at the present time. However, NSTAR stated that it would support price differentiation among rate classes if such rate differentiation was necessary to avoid cross-subsidies or if it produced an overall lower cost of supply (NSTAR Comments at 3). Sithe states that there are important cost-based reasons why the Department should establish different default service prices for different classes of customers (Sithe Comments at 2-3). Sithe encourages the Department to differentiate default service policy based on the economic cost of serving different classes of default service customers (id.). MECo states that seeking bids for the aggregate needs of all default service customers is the best approach for procuring default service (MECo Comments at 7). According to MECo, this approach minimizes the effects of a single large customer or group of large customers either commencing or terminating default service (id.). The Competitive Retail Suppliers and Aggregators state that there are data which demonstrate that costs associated with default service will differ significantly among customer classes (Competitive Retail Suppliers and Aggregators Comments at 2). Therefore, the Competitive Retail Suppliers and Aggregators request that the Department direct utilities to solicit separate prices by customer classes when they procure default service power (id.). WMECo and Fitchburg indicate that there are not enough data to demonstrate that the costs to provide default service will differ significantly among customer classes (WMECo Comments at 3; Fitchburg Comments at 5). DOER states that allowing suppliers to bid for loads discretely will allow them to reflect the appropriate costs and level of risks in the prices they charge to supply default service to the customer (DOER Comments at 3). In contrast, according to DOER, requiring default service suppliers to provide an average price to all customer classes will lead to cross-subsidization between classes (id.). DOER states that customers with relatively

low-risk profiles would see higher than appropriate prices for default service and customers with relatively high-risk profiles would see lower than appropriate prices for default service (id.). DOER notes that there is no statutory or regulatory prohibition against structuring default service pricing to account for differences in costs to serve different rate classes (id., citing G.L. c. 164 § 1B(d); 220 C.M.R. § 11.04 (9)(c)(2)).

3. Analysis

The Department recognizes that there are two primary factors pertaining to the costs of providing default service: 1) accounting costs based on load factors and load profiles of the various customer classes, and 2) the costs attributable to the economic risks of serving those classes. The comments indicate that traditional cost of service information is available by customer class and that this information is likely to provide the accounting costs associated with servicing the various customer classes. Nevertheless, the

Department has not been provided with sufficient facts to demonstrate the effect or magnitude of the costs associated with the economic risks of providing default service to the various customer classes. The Competitive Retail Suppliers and Aggregators assert that "virtually every other state with a competitive electric market has established default service prices that vary by customer class" (Competitive Retail Suppliers and Aggregators Comments at 2, Exh. 1[(13)]). However, the mechanics of default service and the method of solicitation in these states are not sufficiently similar to what we have proposed in Massachusetts for this information to be directly applicable. We believe that there are insufficient facts to indicate the magnitude or direction of the cost differences of providing default service to the various customer classes.

The Department concludes that the cost of risk associated with customer migration should be allocated to customer classes to whom this risk, if risk there be, might be attributable. The Department notes that differentiating prices by customer class only makes sense if there are significant cost differences -- a premise not yet supported by sufficient information. Therefore, we will allow actual solicitations to test the hypothesis. We note that actual solicitations with different bid prices for each customer class or customer class grouping will enable the determination of whether there are significant cost differences for various customer classes. Therefore, the Department directs all electric distribution companies in Massachusetts to solicit default service proposals with separate bid prices for three customer groups: 1) residential; 2) commercial;[(14)] and 3) industrial.[(15)] Distribution companies whose billing systems currently are unable to accommodate multiple default service prices should so notify the Department and indicate the time required to make the necessary changes.

The Department intends to evaluate over time the customer group-based bid prices that utilities receive in their default service solicitations. If the information indicates that there is not a significant difference between bid prices for each of the customer class groupings, then the Department may allow distribution companies the option to conduct solicitations based on a single bid price for all customer classes and charge a single price to all customer groups.

C. Frequency of Default Service Solicitations

1. The Department's Draft Guidelines

The Department's draft guidelines left one matter to the discretion of the distribution company -- the selection of the period for which default service is procured so that overall costs are minimized.

2. Summary of Comments

Most commenters have indicated a preference for solicitations to be for a period of six months to a year. MECo states that a solicitation every six months is an appropriate balance between the legislative goals for market based pricing, administrative simplicity, and customer comprehension and education (MECo Comments at 8). PG&E states that default service solicitations should be made on a quarterly basis for large C&I customers (PG&E Comments

at 2-3). According to PG&E, the longer the time period covered by a single solicitation, the greater the volume uncertainty and the greater the uncertainty regarding the cost to serve or hedge (id.). NSTAR does not support solicitations to supply default service for less than a

six-month period, stating that more frequent solicitations would have an adverse effect on the customer notification and consumer education components of default service, resulting in a corresponding increase in incremental costs (NSTAR Comments at 4). WMECo supports one-year default service solicitations for the next several solicitation cycles (WMECo Comments at 2). Fitchburg states that solicitations should be for periods of six months (Fitchburg Comments at 3).

3. Analysis

In order to satisfy the Act's requirement for a six-month fixed price option, a minimum procurement period of six months is necessary.[(16)] As the period for which power is procured gets longer, greater uncertainty is introduced into the procurement process, which likely will result in a greater deviation between the monthly bid prices submitted by potential default service suppliers and the actual monthly market prices. This may result in default service prices that are not sufficiently indicative of market prices, which could hinder the development of a robust retail market. By contrast, a longer period for default service supply may lower the overall prices offered by suppliers.

An upper limit of one year on the period for which supply is procured is a reasonable balance between the need to foster the retail market and the need to keep default service prices low by frequent market testing. Accordingly, the Department directs electric utility companies in Massachusetts to procure default service for a period ranging from a minimum of six months to a maximum of one year.

D. Administrative Costs

1. The Department's Draft Guidelines

Under the Department's draft guidelines, each distribution company's default service price would include the bid price paid to the winning default service supplier or suppliers. We noted, however, that we would consider whether to include the administrative costs incurred by the distribution company in providing default service in this price. In D.T.E. 99-60-A, the Department recognized that including the administrative costs in the default service price would ensure that all incremental costs to provide default service are included in the price signal received by retail customers, and would therefore foster a robust retail market. However, we noted that it may be difficult to implement this aspect of the guidelines and, therefore, sought additional comment on this issue.

2. Summary of Comments

NSTAR and WMECo state that the administrative costs for providing default service will be small compared to the bid price for supplying default service (NSTAR Comments at 4; WMECo Comments at 5). MECo and Fitchburg estimate that these costs will add $0.0002 per kilowatt-hour ("KWH") and $0.0004 per KWH to their default service prices, respectively (MECo Comments at 9; Fitchburg Comments at 2).

The Competitive Retail Suppliers and Aggregators argue that the administrative costs, no matter how small, should be included in default service (Competitive Retail Suppliers and Aggregators Comments at 5). The Competitive Retail Suppliers and Aggregators assert that even if the magnitude of these costs seem small, they are significant compared to gross margins because retail electric supply is a very low margin business (Competitive Retail Suppliers and Aggregators Comments at 6). Further, the Competitive Retail Suppliers and Aggregators argue that not including these costs simply because they are small would be inconsistent with Department ratemaking principles (id.).

DOER and the Competitive Retail Suppliers and Aggregators recommend that, in addition to the costs of procurement of default service supply, an administrative cost adder should include costs associated with customer credit, collections and bad debt; metering, billing, account maintenance and customer service costs; working capital costs; and corporate and overhead costs (DOER Comments at 5, n.1; Competitive Retail Suppliers and Aggregators Comments at 5). MECo asserts that it would be difficult to calculate an adder to represent costs such as bad debt expense because these costs are based on factors such as the number of customers and are not associated with power supply costs or energy use (MECo Comments at 10). Moreover, MECo argues that inclusion of these costs would result in a reallocation of costs among rate classes with large users paying more for customer service than warranted by Department precedent (id.).

Several commenters state that a base rate proceeding is not necessary to quantify the administrative costs associated with providing default service (id.; DOER Comments at 6; Competitive Retail Suppliers and Aggregators Comments at 6; WMECo Comments at 6). DOER, the Competitive Retail Suppliers and Aggregators, and NewEnergy recommend that the Department base the adder for administrative costs on the amounts included by the distribution companies in those accounts that contain costs related to default service procurement and administration (DOER Comments at 5; Competitive Retail Suppliers and Aggregators Comments at 6; NewEnergy Comments at 2). In addition, NewEnergy recommends that, until such an accounting is conducted, the administrative costs should be set at 0.5 mils per KWH (NewEnergy Comments at 2).

MECo and WMECo recommend that all revenues received through the incremental charge for administrative costs be credited to customers through the annual transition charge reconciliation mechanism (MECo Comments at 9; WMECo Comments at 6). AllEnergy also recommends a periodic reconciliation in the event that the distribution company institutes a distribution charge credit to compensate for the additional revenues it receives because of the administrative cost adder (Tr. at 115-117).

3. Analysis

The Department concludes that the administrative costs for procurement of default service supply are not significant compared to the expected bid prices for default service supply.(17) Some commenters recommend that the adder for administrative costs include other costs such as bad debt expense. The inclusion of these costs as a uniform adder will result in a re-allocation of costs among rate classes. In addition, there are no facts showing that the inclusion of the other costs such as those for bad debt will make the adder significant compared to the bid prices for default service supply. Further, the inclusion of the administrative costs in the default service price will require some form of reconciliation. Such periodic reconciliations will add to the administrative burden for the distribution companies. While the inclusion of administrative costs in the price of default service sends the right price signal to customers, we conclude that the relatively small magnitude of the administrative costs does not warrant the imposition of this additional administrative burden. Therefore, the Department will not require distribution companies to include administrative costs in the price charged to retail customers for default service.

E. Department Oversight

1. The Department's Draft Guidelines

The draft guidelines did not outline a particular role for the Department in overseeing default service procurement. However, in its earlier comments, DOER recommended the Department contribute to designing the procurement process. Specifically, DOER recommended that the Department approve a standard contract and envisioned some role for the Department in reviewing the solicitation. In the draft guidelines, we stated an intention to monitor the development of default service to ensure that it is competitive and consistent with other measures of market activity; however, we did not anticipate shadowing the solicitation process as a distribution company conducted a given solicitation and selected winners. We sought additional information on what function, if any, the Department should have in overseeing default service procurement.

2. Summary of Comments

MECo, NSTAR, and WMECo support the position outlined in the draft guidelines and recommend that the Department set guidelines for soliciting supply but not be directly involved in the solicitation process (MECo Comments at 13; NSTAR Comments at 8; WMECo Comments at 8). MECo and NSTAR contend that flexibility is required in developing contracts for supply and thus argue against standard contracts (MECo Comments at 13;

Tr. at 145-147). As an example of the flexibility needed, MECo states that certain bids are available for only a few hours (MECo Comments at 13).

In contrast, DOER advocates a more interventionist role for the Department. DOER recommends that a collaborative process be used to develop a standard contract, and that distribution companies be required to justify deviations from the standard contract (DOER Comments at 10). DOER also recommends that the Department review the results of the solicitations (id.). DOER contends that standardization of the solicitation process will make it easier for bidders to participate and will thus reduce costs (DOER Comments at 10).

DOER and PG&E recommend that the Department require staggered default service solicitations (DOER Comments at 11; PG&E Comments at 7). DOER argues that if all distribution companies solicit supply simultaneously, a losing bidder will have to wait at least six months for the next solicitation, and this will slow the development of the competitive market (id.). In addition, DOER states that evenly spaced solicitations will help minimize supply costs (id.). PG&E contends that staggered solicitations will allow each distribution company to receive a competitive response from the market and for the market to anticipate and fine-tune proposals to each distribution company (PG&E Comments at 7).

Advocating a more active role for the Department, AIM says that the Department has a responsibility to protect customers from rate shocks during the transition to competition, and therefore should use its authority to reject bids or defer costs if necessary (AIM Comments at 4-5). AIM also emphasizes the need for customers to be educated about their options and what it means to be on a particular pricing plan (Tr. at 26). AIM advocates a two-month notice period for customers before new prices go into effect (Tr. at 147-149).

3. Analysis

The Department recognizes the need for flexibility as distribution companies negotiate with suppliers. Having a standard contract would constrain this flexibility and therefore result in less satisfactory results in any particular solicitation. Therefore, the Department will not require standard contracts.

Consistent with its authority to review rates charged to retail customers, the Department will require the results of solicitations to be filed with the Department. Therefore, the Department directs the distribution companies to submit the results of their solicitations for default service as soon as they are available. Consistent with its general supervisory authority, the Department may, on its own motion, determine whether an investigation is necessary.

The Department concludes that staggered solicitations by the distribution companies will foster the development of the competitive market by allowing more opportunities for the various suppliers to supply default service. In addition, staggered solicitations will avoid the possibility of higher prices that may result from simultaneous solicitations for significant electrical load. Therefore, the Department directs the distribution companies to submit, within 30 days of the issuance of this order, their proposed schedules for soliciting supply for default service. The Department will determine an appropriate schedule based on the individual company proposals for soliciting default service supply.

The Department acknowledges the need for providing information and education about changes in default service prices. Therefore, the Department directs the interested parties to set up a working group to develop processes for providing customers such information and education. The working group, in conjunction with the Consumer Division of the Department, should also develop standards, protocols, and schedules for information exchange between the distribution companies and their customers regarding changes in default prices, the availability of the different options for customers, and how customers are to choose from the various options. The working group should submit to the Department its recommendations for these standards, protocols, and schedules within 60 days of the issuance of this Order.

The guidelines for pricing and procurement of default service apply to all solicitations for power to be delivered on or after January 1, 2001, unless otherwise ordered by the Department.

IV. ORDER

After due notice and consideration, it is

ORDERED: That all electric distribution companies comply with the final guidelines for the pricing and procurement of default service contained herein.

By Order of the Department,

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James Connelly, Chairman

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W. Robert Keating, Commissioner

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Paul B. Vasington, Commissioner

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Eugene J. Sullivan, Jr. Commissioner

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Deirdre K. Manning, Commissioner

1. "Default service" is a term used in G.L. c. 14, §1B(d) and 220 C.M.R. § 11.02. It denotes provision of electricity to those customers who are not receiving generation service either from a G.L. c. 164, § 1, electric company as part of standard offer service or from a competitive supplier. The use of distinct terms for "default service" and for "standard service" in St. 1997, c. 164, leads to the ineluctable inference that the Legislature intended distinct types of services during the time that standard offer service is available, each to be treated differently as circumstances might require in a developing electric market. Failure to distinguish these two types of service would be to treat one of the terms as superfluous and thereby to violate accepted canons of statutory construction. Flemings v. Contributory Retirement Appeals Board, 431 Mass. 374, 375 (2000).

2. Comments were submitted by: Enron Energy Services, Essential.com, Exelon Energy, GreenMountain.com and Utility.com (jointly "Competitive Retail Suppliers and Aggregators"); PG&E National Energy Group ("PG&E"); NewEnergy East, L.L.C. ("NewEnergy East"); MHI, Inc. ("MHI"); Fitchburg Gas and Electric Light Company ("Fitchburg"); Sithe New England Holdings, L.L.C. ("Sithe"); Massachusetts Electric Company and Nantucket Electric Company (jointly "MECo"); Western Massachusetts Industrial Customers Group ("WMICG"); Associated Industries of Massachusetts ("AIM"); National Energy Marketing Association ("NEMA"); Western Massachusetts

Electric Company ("WMECo"); Commonwealth of Massachusetts Division of Energy Resources ("DOER"); and Boston Edison Company, Cambridge Electric Light Company and Commonwealth Electric Company (jointly, "NSTAR").

3. Participants in the technical session were: Utility.com; GreenMountain.com; AIM; AllEnergy Marketing Company, L.L.C. ("AllEnergy"); Exelon Energy ("Exelon"); NewEnergy East; MECo; WMICG; Commonwealth of Massachusetts Office of the Attorney General ("Attorney General"); PG&E; Fitchburg; NSTAR; WMECo; DOER; Siemens Building Technologies, Inc. ("Siemens"); and the Energy Consortium ("Energy Consortium").

4. Inserted by "An Act Relative to Restructuring the Electric Utility Industry in the Commonwealth, Regulating the Provision of Electricity and Other Services, and Promoting Enhanced Consumer Protection Therein," signed by the Governor on November 25, 1997 ("Restructuring Act" or "Act"). St. 1997, c. 164.

5. On April 28, 2000, MECo requested permission to increase its rates for default service. The Department denied MECo's request. As a result, MECo continues to incur a default service deferral. The Department noted that different circumstances might warrant a different treatment or response (Letter to Massachusetts Electric Company regarding Pricing for Default Service, June 1, 2000).

6. Under the draft guidelines, customers that began receiving default service after the start of a six-month default service term and that were previously receiving generation service from competitive suppliers could only receive the variable price option for the remainder of the six-month term. These customers would continue to receive the variable price option until the beginning of the subsequent six-month term, at which time the customers could choose to remain on the monthly pricing option or switch to the six-month level pricing option.

7. The expression "game the system" is used in this instance to describe situations in which competitive suppliers may seek to switch their customers to default service during peak months when the default service price is lower than prices available in the wholesale energy market. It is assumed that the suppliers will switch these customers back to competitive supply during those months when the default service price is higher than prices available in the wholesale energy market.

8. The words "up to six months" could be taken to mean any period from one month but not more than six months. We believe the Legislature intended to extend to customers an option of price stability for "at least" six months. That conclusion seems more consonant with the protective purposes of the 1997 Restructuring Act and consistent with our obligation to construe the statute as a harmonious whole.

9. Small C&I customers are those customers receiving distribution service on Boston Edison Company's Rate G-1 or Rate T-1; Cambridge Electric Light Company's Rate G-0;

Commonwealth Electric Company's Rate G-1 or G-7; Fitchburg's Rate GD-1; MECo's Rate G-1; and W MECo's Rate G-0 or Rate T-0.

10. By "customary" we mean the pricing option (either levelized over six months or tracking the monthly market variations in default service) to which a customer will be automatically assigned unless he chooses otherwise. "Customary" may not be the best of terms but it avoids the absurd locution "default" default service.

11. The Department notes that all customers would still be able to avail themselves of a budget plan whereby the customer's electric usage is projected for a period, equal monthly charges are calculated and billed for that period, and charges are reconciled with actual usage in the final billing for the period. 220 C.M.R. § 25.01(2). Each distribution company is required to make available budget plans as an option to all customers. 220 C.M.R. § 25.02.

12. Rendering a recalculated bill for costs caused, but not yet paid, during high-cost service months should eliminate any reason for competitive suppliers to promote seasonal migration to default service customers during high-cost months, as was witnessed in early 2000.

13. Exhibit 1 includes default service prices for California, Maine, Connecticut, Pennsylvania, and New Jersey.

14. Street lighting customers should be included in the commercial category for the purpose of default service solicitations.

15. The Department notes that Fitchburg may have a smaller customer base so as to warrant only two customer groupings in order to sustain an efficient wholesale procurement. Accordingly, the Department will allow Fitchburg to implement a default service pricing scheme with two customer groupings.

16. See n.8, above.

17. The Department notes that Fitchburg's estimate of $0.00044 per KWH is higher than MECo's because its overall load is smaller (see Fitchburg Comments at 2).